

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

BRADLEY A. WOOTEN,

Plaintiff,

v.

ANGELO PANOS, JESSICA BOHN,  
JULIE LUDWIG, KWON YANG, and  
MARISSA SHIER,

Defendants.

Case No. 20-CV-478-JPS

**ORDER**

This case is currently scheduled for trial on November 21, 2022. ECF No. 41. On October 12, 2022, Plaintiff filed a motion for default judgment. ECF No. 48. On October 17, 2022, Defendants filed a response. ECF No. 49.

Plaintiff argues that default is appropriate because Defendants failed to respond to the amended complaint, originally filed on November 12, 2021, as an attachment to a motion for leave to file an amended complaint. *See* ECF Nos. 34, 34-1, 48. On February 16, 2022, the Court granted Plaintiff's motion to amend the complaint, screened the amended complaint, and allowed Plaintiff to proceed on the amended complaint as the operative complaint. ECF No. 33. The Court did not explicitly set a date for Defendants to file an answer or otherwise respond in that order. *See id.* The Court then issued a scheduling order on April 11, 2022. ECF No. 36.

On February 17, 2022, the Clerk of Court, in response to the Court's order, filed the amended complaint on the docket to reflect it as the operative complaint. *See* ECF No. 34. As far as the Court can glean,

Defendants did not file an answer to the amended complaint following the Court's February 16, 2022 screening order.

The Court will deny Plaintiff's motion for default judgment in the interest of justice. Plaintiff is correct that Defendants failed to file an answer to the amended complaint. However, the Seventh Circuit has a well-established policy favoring a trial on the merits of a case as opposed to default judgment. *See Sun v. Bd. of Trs. of the Univ. of Ill.*, 473 F.3d 799, 811 (7th Cir. 2007).

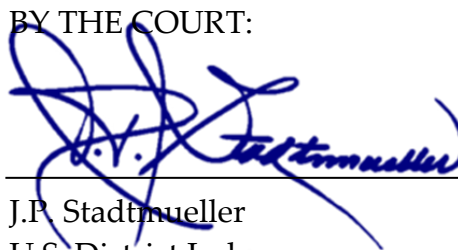
Defendants have appeared and this case is ready to proceed to trial on the merits. The amended complaint did not add any new defendants or claims. ECF No. 34. As noted in the Court's screening order, the amended complaint only adds additional detail regarding Plaintiff's medical history. And, importantly, the Court did not allow Plaintiff to proceed on any new claims in the screening order. ECF No. 33. If there was an issue with Defendants' failure to file an answer, this issue should have been raised earlier in this case as opposed to on the eve of trial. Given these circumstances, the Court finds that Plaintiff was not prejudiced by Defendants' failure to file an answer to the amended complaint. As such, the Court will accordingly deny Plaintiff's motion for default judgment in the interest of justice. This case will proceed to trial on the merits.

Accordingly,

**IT IS ORDERED** that Plaintiff's motion for default judgment, ECF No. 48, be and the same is hereby **DENIED**.

Dated at Milwaukee, Wisconsin, this 18th day of October, 2022.

BY THE COURT:



J.P. Stadtmueller  
U.S. District Judge